

AGENDA ITEM #6

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Date: September 22, 2009

ACTION BY THE NATURAL RESOURCES COMMISSION FLOOD CONTROL REVOLVING FUND LOAN APPLICATION LAKE EDGEWOOD CONSERVANCY DISTRICT, MORGAN COUNTY

Application No. 150

AUTHORITY

An application in the form of a resolution and a verified petition dated August 4, 2009, requesting a loan of \$151,000 from the Flood Control Revolving Fund was submitted by the Lake Edgewood Conservancy District to the Natural Resources Commission (NRC), through the Department of Natural Resources (DNR), Division of Water.

The Flood Control Revolving Fund, I.C. 14-28-5, provides a fund from which loans may be made for an approved flood control program to a municipality, city, town, county or special taxing district in accordance with provisions of the Act and the rules and regulations there under. The administrative control of the fund and the responsibility for the administration for the provisions of the Act are vested with the Natural Resources Commission (*Reference P.L. 53-2008*).

The Indiana Conservancy District Act, IC 14-33-7-7, states:

(a) To pay the costs of establishing a district, including general, legal, and administrative costs and costs incident to preparing the district plan, money may be obtained from one (1) or a combination of the following methods:

- (1) Gifts, loans, or grants from a state or federal agency, or both.
- (2) Gifts from any source.
- (3) The collection of the special benefit tax.
- (4) Borrowing from private or public sources in anticipation of the collection of the tax.
- (5) Advances from the general fund of the county under section 15 of this chapter.
- (6) Borrowing from the economic development fund created by IC 5-28-8 for any of the purposes in IC 14-33-1-1.
- (7) Borrowing from the flood control revolving fund created by IC 14-28-5 for any of the purposes in IC 14-33-1-1.

(b) All persons, agencies, and departments charged with the administration and supervision of funds such as those created by IC 5-28-8 and IC 14-28-5 may make loans and advances to a district.

NEED FOR THE FUNDING

The Lake Edgewood Conservancy District was established by the Morgan Circuit Court on March 24, 2009 and is located 1.5 miles northwest of Martinsville in central Morgan County. The Lake Edgewood Dam (DNR file number #55-8) impounds a 53-acre lake known as Lake Edgewood. This earthen embankment was built in 1959 across an unnamed tributary to the White River and no plans on the construction are known to exist.

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This recreational dam is approximately 29 feet high, 635 feet long, and is classified by the DNR as high hazard. The Lake Edgewood dam has experienced substantial problems in the past, most recently during the June 2008 storm when a portion of the spillway eroded. Currently the principal spillway only passes 65% of the Probable Maximum Precipitation (PMP) before overtopping of the dam occurs. For dams classified as high hazard, engineering practice for dam safety is typically to seek safely passing 100% of the PMP event.

If the dam is not rehabilitated, further damage during storm events can be anticipated and a breach of the dam may occur, which would cause severe negative impacts to the property values to the area surrounding Lake Edgewood. The establishment of the District was necessary to fund repair and maintenance tasks. Additionally, the District is currently working with the DNR's Dam and Levee Safety Section and a professional engineering firm to correct the deficiencies of the dam.

The Lake Edgewood Conservancy District does not have funds at this time. The District has accumulated over \$56,000 in establishment expenses. These establishment expenses are expected to grow to approximately \$75,000 before the process is completed.

Preparation of the District Plan and engineering costs associated with the rehabilitation project is estimated at \$76,000.

The District states that without the approval of this funding, the District would be unable to pursue additional services to move into the construction phase for the needed repairs to the dam. The District plans to finance the repayment of the Flood Control Revolving Fund and construction costs by utilizing the Exceptional Benefits provision of the Conservancy District Act (IC 14-33). Bonds and financing from the United States Department of Agriculture (Rural Development) are being explored as long-term financing.

PROPOSED USE OF FUNDS

The Lake Edgewood Conservancy District proposes to use borrowed funds to pay for costs incurred to establish the District and for engineering costs associated with the preparation of the District Plan.

COST ESTIMATES AND AMOUNT OF REQUEST

The Lake Edgewood Conservancy District is requesting a total of \$151,000.00 broken down as follows:

\$75,000.00 for legal and administrative costs incurred to establish the District,
\$76,000.00 for the preparation of the District Plan and the associated engineering costs.

OPERATION AND MAINTENANCE OF THE PROJECT

In addition to budgeting annually for routine maintenance activities, the Lake Edgewood Conservancy District will establish a Cumulative Maintenance Fund, as specified in the Conservancy Act under I.C. 14-33-14, in which funds are available for emergency or unusually expensive maintenance costs.

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PLAN FOR REPAYMENT

The loan will be repaid in ten (10) annual installments of \$15,100.00 plus 3% interest on the declining balance. The District, in accordance with the Conservancy District Act, I.C. 14-33-7, will make repayment from tax revenues assessed.

ACTION AND RECOMMENDATION

The application satisfies the requirements as set forth in the Flood Control Revolving Fund, I.C. 14-28-5 as follows:

- An application in the form of a verified petition was submitted by the Lake Edgewood Conservancy District consistent with the provisions of IC 14-28-5-9.
- If approved, the borrowed funds will be used to pay for costs associated with the establishment of the District and for costs associated with the development of the District Plan pursuant to IC 14-33-7-7.
- This request for \$151,000.00 does not exceed the \$300,000.00 maximum outstanding loan limit specified under I.C. 14-28-5-7.
- According to the DNR Budget as of August 31, 2009, the Flood Control Revolving Fund has a fund balance of \$ 2,129,762.
- The responsibility for the administration of the provisions and control of the Flood Control Revolving Fund are vested with the Natural Resources Commission.

The Lake Edgewood Conservancy District's application for a loan from the Flood Control Revolving Fund for \$151,000.00 is approved by the Natural Resources Commission.

Robert E. Carter, Jr.
Secretary
Natural Resources Commission